

APPEAL, STAFF REPORT & RECOMMENDATION TO THE HEARINGS EXAMINER

Form DS1701



Project Name: Crown Corporation Warehouse

Case Numbers: APL2004-00024 (appeal of PSR2004-00028)

Appellant: Crown Corporation
11200 NE Gren Fels
Battle Ground, WA 98604

Appellant Contact: Mark F Stoker
Heurlin, Potter, Jahn, Leatham & Holtmann
211 E McLoughlin Boulevard, Ste 100
Vancouver WA 98663
(360) 750-7547

Property Owner: Same as Appellant

Hearing Examiner: Daniel Kearns

Hearing Date: November 4, 2004

Request: To construct a 22,500 square foot manufacturing/warehouse facility on a 4.55 acre site containing two existing light industrial buildings, located in the Light Industrial (ML) zoning district.

Location: 6013 NE 127th Avenue

Appeal Issues: The applicants for the above request are appealing a requirement to provide a minimum 20% landscape coverage for the site plan review application (PSR2004-00028).

RECOMMENMDATION

Uphold Planning Director's Determination

Team Leader Initials: _____ **Date Issued: October 20, 2004**

County Review Staff:

County Staff

Name

Phone

E-mail Address

(360)397-2375

Extension

Planner:

Alan Boguslawski

4921

Alan.boguslawski@clark.wa.gov

Engineer:	Ali Safayi	4102	Paul.knox@clark.wa.gov
Concurrency:	Shelley Oylear	4354	Shelley.oylear@clark.wa.gov
Fire Marshal:	Tom Scott	4095	Tom.scott@clark.wa.gov

Legal Description: Tax Lots 6 (107910) and 4/6 (107922) located in the SE ¼ of Section 10, Township 2 North, Range 2 East of the Willamette Meridian.

Comp Plan Designation: Light Industrial

Applicable Laws: Clark County Code Chapters: 12.05A (Transportation Standards), 12.41 (Transportation Concurrency), 13.08A (Sewer), 13.29 (Stormwater and Erosion Control), 13.40A (Water), 13.70 (Critical Aquifer Recharge Areas), 15.12 (Fire), 18.65 (Impact Fees), 18.317A (Industrial Districts), 18.402A (Site Plan Review), 18.600 (Procedures), and 20.50 (SEPA).

Project Description

The applicant proposes to construct a 22,500 square foot manufacturing/warehouse building. The 4.55 acre site contains an existing industrial park consisting of two buildings of 36,500 and 27,500 square feet, respectively. The portion of the site where the new building is proposed to be located is currently devoted to outdoor storage and parking.

NE 127th Avenue abuts the site on the west and provides existing access. No new driveways are proposed. NE 59th Street abuts the site on the south. Both street frontages are fully improved.

Background

On August 20, 2004, the county issued a Type II Development & Environmental Review Staff Report & Decision (PSR2004-00028) approving the preliminary site plan, subject to conditions of approval.

Appeal Issue and Staff Response

The appellant disputes Finding 5 in the staff report and the attendant conditions of approval (A-2, C-2, & D-3), stating that they are in error in requiring a minimum 20% landscape coverage for the site. He argues that the requirement in CCC Table 18.317A.040 for a minimum landscaped area of 20% does not apply to the ML zone, but applies only to the OR, OC, and U zones. His argument is based on the structure of the language in that portion of the table, because it is printed as follows:

Minimum landscaped area/type*	20 percent/L1 for all OR, OC, U zones
-------------------------------	---------------------------------------

In support of this argument, the appellant states that prior to 1994 the County Code had no minimum landscape requirements for the Industrial, Business Park, Office Campus or University zones, and that a 1994 amending ordinance (his Exhibit A) inserted the above language limiting the landscape requirement to the OR, OC, and U zones.

The appellant further argues that a requirement for a minimum of 20% of developed industrial to be landscaped would not be consistent with the goals of the Comprehensive Plan.

The appellant also argues that any requirement to devote 20% of his land area to landscaping is disproportionate to the impacts created by the development, citing previous case law. He states that the 15% site landscaping proposed by the applicant is adequate to mitigate any adverse impact, and that the City of Vancouver only requires 10% landscape coverage in its light industrial zone.

Staff Response:

Staff has responded to this issue in the staff report under Finding 5, because the applicant had made this argument prior to issuance of the staff report. Therefore, the Hearings Examiner is referred to Finding 5 for staff's initial response, and staff will further supplement that response here.

The appellant's assertion that prior to 1994 the County Code had no minimum landscape requirements for the Industrial, Business Park, Office Campus, or University zones is incorrect. Exhibit #1 attached to this report contains excerpts from the 1994 Clark County Code. Sections 18.314.090, 18.315.080, 18.316.100, and 18.317.080 provided landscaping requirements for the BP2, BP, MP, and ML/MH districts, respectively. The Examiner will note that these sections were established by ordinances from the 1980's. The Office Campus and University zones, established subsequently by Ordinance 1994-12-53, also contained landscaping requirements in Sections 18.314.080 and 18.319.090, respectively (see Exhibit #2). Therefore, the assertion that the purpose of the subject language in Table 18.317.040 was to provide landscape requirements for these other zones because they did not have any minimum landscape standards is not a valid one.

Table 18.317.040 and the subject language cited above first appeared in the code as a result of Ordinance 1995-01-26. This ordinance (in pertinent part attached as Exhibit #3) was the result of a comprehensive revision of the county development review standards and procedures, as compiled by a Blue Ribbon Committee appointed by the Board of County Commissioners, and it was subjected to public hearings by the Planning Commission. In the total context of the table, itself, and of the entire Industrial Districts exhibit of that ordinance, the purpose of the subject language is clearly related to the industrial districts and to regulate landscape coverage in the industrial districts; not to apply to the OR, OC, and U zones, which are in separate chapters of the code and have their own development standards (including landscaping) within.

While the appearance of the OR, OC, and U zones in the industrial standards table may be questionable, to accept the appellant's interpretation and contention that the 20% minimum landscape coverage is intended to apply only to the OR, OC, and U zones requires the reader to accept that it was the legislative intent of this ordinance to require no minimum landscape coverage standard in the industrial zones what so ever.

Furthermore, in an effort to ascertain the legislative intent of that code section, staff consulted Robert Higbie, the county planner who participated directly with the Blue Ribbon Committee throughout their review process. Mr Higbie verified that, based on his experience, it was definitely the legislative intent of the committee to require a minimum 20% landscape coverage standard in the industrial zones.

In response to the appellant's argument regarding the goals of the Comprehensive Plan, staff would point out that the Plan includes a Community Design Element, which includes goals intended to improve the visual attractiveness of the community and encourage quality architecture and landscape design.

In response to the appellant's argument regarding proportionality, staff finds that it contains no evidence or analysis to support the contention that a requirement for 20% landscape coverage is disproportionate to the impacts of the development, but that the 15% proposed by the applicant is not. Furthermore, the relative landscape standards of another jurisdiction are not relevant to the requirements of Clark County Code.

CONCLUSION

Based on staff's research of the applicable county ordinances, the findings and conclusions contained in the Type II Staff Report & Decision for PSR 2004-00028 issued on August 20, 2004, and the responses above, staff concludes that it is the legislative intent of the ordinances and Clark County Code under which the subject application is vested, that new development in the ML zone be required to provide a minimum 20% landscaped coverage of the development site.

RECOMMENDATION

The Development Services Manager recommends that the Hearings Examiner DENY the Appeal (APL2004-00024) and uphold the Staff Report & Decision for Crown Corporation Warehouse (PSR2004-00028).

Attachments:

Preliminary Site Plan
Exhibit #1
Exhibit #2